

§ 1210.505

and subcontractors applicable to contracts entered into by the Board are subject to audit by the Secretary.

§ 1210.505 Department of Agriculture costs.

Pursuant to § 1210.340, the Board shall reimburse the Department of Agriculture for referendum and administrative costs incurred by the Department with respect to the Plan. The Board shall pay those costs incurred by the Department for the conduct of Department duties under the Plan as determined periodically by the Secretary. The Department will bill the Board monthly and payment shall be due promptly after the billing of such costs. Funds to cover such expenses shall be paid from assessments collected pursuant to § 1210.341.

[55 FR 13256, Apr. 10, 1990, as amended at 60 FR 10800 Feb. 28, 1995]

ASSESSMENTS

§ 1210.515 Levy of assessments.

(a) An assessment of two cents per hundredweight shall be levied on all watermelons produced for ultimate consumption as human food, and an assessment of two cents per hundredweight shall be levied on all watermelons first handled for ultimate consumption as human food. An assessment of four cents per hundredweight shall be levied on all watermelons imported into the United States for ultimate consumption as human food at the time of entry in the United States.

(b) The import assessment shall be uniformly applied to imported watermelons that are identified by the numbers 0807.10.30007 and 0807.10.40005 in the Harmonized Tariff Schedule of the United States or any other number used to identify fresh watermelons for consumption as human food. The U.S. Customs Service (USCS) will collect assessments on such watermelons at the time of entry and will forward such assessment as per the agreement between USCS and USDA. Any importer or agent who is exempt from payment of assessments may submit the Board adequate proof of the volume handled by such importer for the exemption to be granted.

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(c) Watermelons used for non-human food purposes are exempt from assessment requirements but are subject to the safeguard provisions of § 1210.521.

[55 FR 13256, Apr. 10, 1990, as amended at 60 FR 10800, Feb. 28, 1995]

§ 1210.516 [Reserved]

§ 1210.517 Determination of handler.

The producer and handler assessments on each lot of watermelons handled shall be paid by the handler. Unless otherwise provided in this section, the handler responsible for payment of assessments shall be the first handler of such watermelons. The first handler is the person who initially performs a handling function as heretofore defined. Such person may be a fresh shipper, processor, or other person who first places the watermelons in the current of commerce.

(a) The following examples are provided to aid in the identification of first handlers:

(1) Producer grades, packs, and sells watermelons of own production to a handler. In this instance, it is the handler, not the producer, who places the watermelons in the current of commerce. The handler is responsible for payment of the assessments.

(2) Producer packs and sells watermelons of that producer's own production from the field, roadside stand, or storage to a consumer, trucker, retail or wholesales outlet, or other buyer who is not a handler of watermelons. The producer places the watermelons in the current of commerce and is the first handler.

(3) Producer purchases watermelons from another producer. The producer purchasing the watermelons is the first handler.

(4) Producer delivers field-run watermelons of own production to a handler for preparation for market and entry into the current of commerce. The handler, in this instance, is the first handler, regardless of whether the handler subsequently handles such watermelons for the account of the handler or for the account of the producer.

(5) Producer delivers field-run watermelons of own production to a handler for preparation for market and return to the producer for sale. The producer

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in this instance, is the first handler, except when the producer subsequently sells such watermelons to a handler.

(6) Producer delivers watermelons of own production to a handler who takes title to such watermelons. The handler who purchases such watermelons from the producer is the first handler.

(7) Producer supplies watermelons to a cooperative marketing association which sells or markets the watermelons and makes an accounting to the producer, or pays the proceeds of the sale to the producer. In this instance, the cooperative marketing association becomes the first handler upon physical delivery to such cooperative.

(8) Handler purchases watermelons from a producer's field for the purpose of preparing such watermelons for market or for transporting such watermelons to storage for subsequent handling. The handler who purchases such watermelons from the producer is the first handler.

(9) Broker/Commission House receives watermelons from a producer and sells such watermelons in the Broker's/Commission House's name. In this instance, the Broker/Commission House is the first handler, regardless of whether the Broker/Commission House took title to such watermelons.

(10) Broker/Commission House, without taking title or possession of watermelons, sells such watermelons in the name of the producer. In this instance, the producer is the first handler.

(11) Processor utilizes watermelons of own production in the manufacture of rind pickles, frozen, dehydrated, extracted, or canned products for human consumption. In so handling watermelons the processor is the first handler.

(12) Processor purchases watermelons from the producer thereof. In this instance, the processor is the first handler even though the producer may have graded, packed, or otherwise handled such watermelons.

(b) In the event of a handler's death, bankruptcy, receivership, or incapacity to act, the representative of the handler or the handler's estate shall be

considered the handler of the watermelons for the purpose of this subpart.

[55 FR 13256, Apr. 10, 1990, as amended at 58 FR 3356, Jan. 8, 1993]

§ 1210.518 Payment of assessments.

(a) *Time of payment.* The assessment on domestically produced watermelons shall become due at the time the first handler handles the watermelons for non-exempt purposes. The assessment on imported watermelons shall become due at the time of entry, or withdrawal, into the United States.

(b) *Responsibility for payment.* (1) The first handler is responsible for payment of both the producer's and the handler's assessment. The handler may collect the producer's assessment from the producer or deduct such producer's assessment from the proceeds paid to the producer on whose watermelons the producer assessment is made. Any such collection or deduction of producer assessment shall be made not later than the time when the first handler handles the watermelons.

(2) The U.S. Customs Service shall collect assessments on imported watermelons from importers and forward such assessments under an agreement between the U.S. Customs Service and the U.S. Department of Agriculture. Importers shall be responsible for payment of assessments directly to the Board of any assessments due but not collected by the U.S. Customs Service at the time of entry, or withdrawal, on watermelons imported into the United States for human consumption.

(c) *Payment direct to the Board.* (1) Except as provided in paragraph (b) and (e) of this section, each handler and importer shall remit the required producer and handler assessments, pursuant to § 1210.341 of the Plan, directly to the Board not later than 30 days after the end of the month such assessments are due. Remittance shall be by check, draft, or money order payable to the National Watermelon Promotion Board, or NWPB, and shall be accompanied by a report, preferably on Board forms, pursuant to § 1210.350. To avoid late payment charges, the assessments must be mailed to the Board and postmarked within 30 days after the end of the month such assessments are due.